No.

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No. 567

In the Supreme Court of the United States

OCTOBER TERM, 1957

MISSISSIPPI RIVER FUEL CORPORATION, PETITIONER

v.

FEDERAL POWER COMMISSION

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE FEDERAL POWER COMMISSION IN OPPOSITION

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OPINIONS BELOW

The decision of the Presiding Examiner (R. 807–917)[1] and the order of the Federal Power Commission (R. 937–939), modifying that decision and affirming it as modified, are not reported. The opinion of the Court of Appeals (Pet. App. A, pp. 1–17), as amended (Pet. App. B, pp. 3–5), is not yet reported.

JURISDICTION

The judgment of the Court of Appeals was entered on July 8, 1957 (R. 1062). A petition for re-

[1] "(R. —)" references are to the record filed jointly by petitioner here and by the United Gas Pipe Line Company, petitioning in No. 568 to review other aspects of the judgment of the Court of Appeals.

hearing *en banc,* seasonably filed, was denied on September 19, 1957 (Pet. App. B, p. 1). The petition for a writ of certiorari was filed on October 21, 1957. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1) and Section 19 (b) of the Natural Gas Act, 15 U S. C. 717r (b).

QUESTION PRESENTED

Under Section 5 (a) of the Natural Gas Act, the Federal Power Commission is authorized to determine a just and reasonable rate or contract to be observed whenever, after an appropriate hearing, it finds that any rate or contract is "unjust, unreasonable, unduly discriminatory, or preferential." In the instant case, the Commission found, after a full hearing, that the existence of two rates paid by the petitioner under separate contracts for respective parts of the same service at a single delivery point was "not in the public interest and should be discontinued," that it constituted "maintenance of an unreasonable difference in rates and charges," and that Section 4 of the Act would be complied with by a filing which would "eliminate unjust, unreasonable and unduly discriminatory rates" and which would apply to petitioner the same rate applicable to other customers.

The question presented is whether these findings adequately meet the statutory standards of Section 5 (a) so that the contract rate was properly set aside and a new rate properly ordered to be put in effect.

STATUTE INVOLVED

The pertinent provisions of the Natural Gas Act of 1938, 52 Stat. 821, as amended, 15 U. S. C. 717, *et seq.*, are set forth in the Appendix, *infra*, pp. 18–21.

STATEMENT

1. BACKGROUND

Petitioner is a "natural-gas company" within the meaning of the Natural Gas Act (Pet. App. A, p. 2). It sells natural gas in interstate commerce for resale by means of a transmission pipeline system extending from Texas and Louisiana to the metropolitan area of St. Louis in Missouri and Illinois. It obtains a substantial portion of its gas supply from the United Gas Pipe Line Company (petitioner in No. 568) under two gas-purchase contracts. The rates and other terms of these contracts were the subject matter of the proceedings before the Federal Power Commission reviewed by the court below.

United, one of the largest pipe-line companies in the world, is also a "natural-gas company" within the meaning of the Act. It serves large markets in the southern portion of the country by means of a transmission system extending from western Texas to Florida and also supplies part of the requirements of transmission lines serving other areas (R. 816–17). It purchases natural gas in more than 200 fields in Texas, Louisiana, and Mississippi from non-affiliated producers and from the Union Producing Company, a corporate affiliate whose stock, along with United's, is wholly owned by a common parent.

The first of the two contracts between petitioner and United involved in this litigation was entered into in 1929 (R. 644-63). Under this agreement, United provided a substantial portion of the gas supply for the operation of petitioner's original Louisiana-St. Louis pipe line (R. 124). The contract was amended from time to time as additional supplies of gas became available to United. Under these supplemental contracts, changes in rates were effected and petitioner acquired rights to deliveries of additional gas (R. 124–29). The Commission found, further, that these amendments were intended by the parties to assure system-wide availability of gas for petitioner rather than to delineate specific sources from which the gas was to be obtained (R. 895).

The second of the two contracts between United and petitioner was entered into in 1951 (R. 706–35). It was premised upon the construction of new pipe-line facilities by United from the Gulf Coast area and obligated petitioner to a specified demand per day. Separate rates, at a higher cost to petitioner, were prescribed under this contract for gas supplied through the new facilities, although deliveries under both contracts were made at a single delivery point in United's Central Rate Zone and gas from United's various sources was commingled prior to delivery so that identification from any specific source could not be made (R. 914–15). This contract did not specify the source fields of the gas to be purchased under it.[2]

[2] Petitioner's statement (Pet. 5) that it seeks to retain in effect a right under the first contract to nominate additional quantities of gas up to May 1, 1961, is based on its assumption,

2. PROCEEDINGS BEFORE THE COMMISSION

The order reviewed by the court below was the culmination of several proceedings before the Commission involving jurisdictional sales by United to approximately 200 customers. The order related to the rate applicable to petitioner alone; the rates applicable to United's other customers in the same rate zone had previously been fixed.

The original proceeding was an investigation instituted by the Commission on its own motion on October 12, 1948, pursuant to Section 5 (a) of the Act, for the purpose of determining the reasonableness of all of United's interstate rates and charges (R. 740–42). The investigation was initiated on the basis of data available to the Commission indicating that the existing rates "may be unjust, unreasonable, unduly discriminatory or preferential" (R. 741). This proceeding would result in the fixing of just and reasonable rates and charges if, after hearing, the existing rates were found to be unlawful (R. 741–42). The second proceeding arose on an order of the Commission issued October 16, 1950, requiring United to show cause why it should not file a restatement of its existing rates and charges in tariff, rather than contract, form, in accordance with an amendment to Part 154

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contested by the Commission in the court below, that the contract gave it an unlimited opportunity to increase its take. In the Commission's view, the contract gave petitioner the right to make one nomination only, which right had been exercised in November, 1948. The Commission's interpretation finds support in the conduct of the parties; for if petitioner's view were correct, the 1951 contract would have been entirely unnecessary. See Pet. App. A, pp. 10–11.

of the Commission's General Rules and Regulations (R. 751–52). This proceeding was rendered moot when, on July 3, 1952, United filed a conversion tariff in compliance with the show-cause order (R. 983–90). As permitted by the Commission's rules, United included in this filing a request for an increase in rates with respect to the first of petitioner's two gas-supply contracts. This request resulted in initiation of the third proceeding, this one to determine the lawfulness of the proposed new rates in accordance with Section 4 (e) of the Act (R. 991–97). Finally, four additional rate-increase proceedings were instituted under Section 4 (e) involving rates to particular town-border customers (R. 753–56). On November 26, 1952, the Commission ordered a consolidation of proceedings, including the investigation under Section 5 (a) and the rate-increase proceeding under Section 4 (e) initiated by United's request for an increase in its conversion tariff (R. 745–49). Shortly thereafter, subsequent to the expiration of the five-month suspension period of Section 4 (e), the increased rates became effective upon United's motion, subject to refund of any amounts found not to be justified (R. 1006–13). On February 9, 1953, petitioner was permitted to intervene in the proceedings (R. 749–50).

Hearings in these consolidated proceedings were held from time to time between March, 1953, and August, 1954 (R. 757–58). On August 17, 1954, all parties, with the exception of petitioner, agreed to a settlement of the matters at issue without the necessity for further hearings (R. 758).[2] By Opinion No.

[2] Three of the parties accepted the settlement subject to the outcome of other pending litigation.

277 and accompanying order issued November 2, 1954, the Commission approved the settlement, finding it fair and reasonable (R. 751–86). As implemented by an appropriate filing applicable to all customers except petitioner, the rates upon which the settlement was based were permitted to become effective. The settlement provided for a single uniform rate to all pipe-line customers in United's Central Rate Zone, instead of maintaining one level of rates for services covered by contracts executed prior to 1951 and another for contracts subsequently entered into.

The proceedings were then ordered terminated except insofar as they related to rates and charges applicable to petitioner (R. 784–85). As to these rates, further hearings were ordered to permit petitioner to be heard fully on its claim to the maintenance of separate rates under two separate contracts (R. 798–99). Petitioner had excepted to Opinion No. 277 in several respects (R. 787–97). Its principal objections (Pet. 7–8) were that the Commission had failed to fix separate rates based on separate cost allocations for gas delivered to petitioner from United's various sources of supply, that certain terms of its initial contract with United should not have been abrogated, and that the Commission erred by including in United's cost of service the cost of gas purchased by United from Union, its corporate affiliate, at the prices fixed in contracts between them. In regard to the latter objection, petitioner contended that United was limited to the rates set forth in original

contracts with Union and could not use the prices in supplementary and amendatory contracts entered into between 1947 and 1954 (R. 849). At these additional hearings, evidence was introduced by petitioner, and by the staff of the Commission resulting from its Section 5 (a) investigation. United adopted the evidence presented by the Commission staff (R. 59–60). On July 21, 1955, the Presiding Examiner issued his decision (R. 807–917) which, modified by citing Section 5 of the Act, was affirmed by the Commission and adopted as its own decision (R. 937–39). Petitioner's application for rehearing was denied on January 6, 1956 (R. 978–79).

In pertinent part, the Commission's order found and determined that:

(a) two different rates and charges under separate contracts for the respective part of a single delivery of natural gas sold by United to petitioner were "not in the public interest and should be discontinued" and that such rates and charges were "excessive, unjust, unreasonable, unduly discriminatory, and preferential" (R. 914);

(b) the single rate charged United's other pipe-line customers in the Central Rate Zone, if applied to all of United's sales to petitioner, would be just and reasonable (R. 915);

(c) the continued existence of two rate schedules for United's sales to petitioner would constitute an unreasonable difference in rates and charges for the same service at the same delivery point (*ibid.*);

(d) compliance with Section 4 of the Act would be effected by requiring United to file a new rate

schedule which would "eliminate unjust, unreasonable and unduly discriminatory rates" to petitioner (*ibid.*); and

(c) it was proper to include in United's allowance for costs the purchases by United from Union, its corporate affiliate, on the basis of the prices contained in the contracts between the two companies, which were the equivalent or less of the prices paid by United to nonaffiliated producers and which petitioner had conceded were fair, just, and reasonable (R. 862, 864, 914).

3. PROCEEDINGS IN THE COURT OF APPEALS

Petitioner applied to the United States Court of Appeals for the District of Columbia Circuit to review and set aside the Commission's order in accordance with Section 19 (b) of the Act (R. 1102–08). United was permitted to intervene in opposition to the petition for review (R. 1044). With respect to the power of the Commission to set aside the rates and other terms of petitioner's existing contracts with United, the court held (Judge Bazelon dissenting) that the Commission had made adequate findings of unreasonableness as required by Section 5 (a) of the Act and that, therefore, the Commission's action was not at variance with the decisions of this Court in *Federal Power Commission* v. *Sierra Pacific Power Co.*, 350 U. S. 348, and *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U. S. 332. (Pet. App. A, pp. 6–10.) Specifically, the court found that "the record amply supports the Commission's conclusion that the two separate rates under the 'old' and 'new'

contracts between United and [petitioner] should give way to the single rate applicable to all customers." (Pet. App. A, p. 10.) The court affirmed the Commission's order in this regard.

With respect to the Commission's decision to allow as a cost of United's services the full contract prices paid for gas by United to Union, its affiliate, the court held that the case should be remanded to the Commission for further findings in regard to the factual justification for rate increases made pursuant to those contracts which were ultimately passed on to United's customers (Pet. App. A, pp. 3–6; Pet. App. B, pp. 2–5). The court ruled that the Commission could not, as a reasonable exercise of administrative discretion, limit itself to a comparison of the prices paid by United to Union with the prices it paid for the same services to non-affiliated producers.[1]

ARGUMENT

The thrust of petitioner's contention is that the Commission's order, setting aside petitioner's gas-supply contracts with United, has the effect of abrogating its contract rights and imposing upon it new rates and charges, to which it has not consented, without the appropriate findings under Section 5 (a) of the Natural Gas Act which would empower the Commission to alter the rates prescribed by these contracts. But the fact is that proper findings were made, and that no general issue of importance is presented for the Court's consideration.

[1] From this portion of the decision, United seeks review in this Court by the petition in No. 568.

1. Petitioner relies on the decisions of this Court in *Federal Power Commission* v. *Sierra Pacific Power Co.*, 350 U. S. 348, and *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U. S. 332, as prohibiting the action taken by the Commission which was affirmed below. However, there is no real issue with respect to the principles laid down in those two rulings. The Court of Appeals correctly gave expression to the doctrine of those cases, and the Commission has not taken any contrary position in this case.

In *Sierra Pacific* and *Mobile Gas*, the Court held that a unilateral filing of new rates under Section 4 (d) of the Natural Gas Act, coupled with subsequent approval by the Commission of the proposed rates as being just and reasonable, is not an effective procedure to supersede rates established under existing contracts which have not themselves been found to be unlawful.[1] The Court ruled that the filing and notice requirements of Section 4 merely prescribe a method by which new contract rates can be established by the parties under Commission supervision and do not change the usual rights of the parties to an alteration of contract terms only by mutual consent.

However, as noted by the Court, existing rates and other contract terms can be set aside by the Commission, and new rates and terms substituted, if the existing rates are found to be "unjust, unreasonable, unduly discriminatory, or preferential" after a "hearing and order" proceeding under Section 5 (a).

[1] The *Sierra Pacific* case actually dealt with Sections 205 and 206 of the Federal Power Act, which are equivalent to Sections 4 and 5 of the Natural Gas Act in all material respects.

Sections 4 and 5 complement each other in this respect: Section 5 gives the Commission the basic power to set aside both established and newly-changed rates which are found to be unlawful, while Section 4 implements this power by authorizing the Commission to suspend and render ineffective changes which are proposed by the companies. 350 U. S. 340–41.

In the *Mobile Gas* case, the Commission had made no findings with respect to the existing contract rates which one of the parties had attempted to change by a unilateral filing under Section 4. In *Sierra Pacific*, an added fact existed which was not present in *Mobile*, for, although the proceeding was on a new rate under Section 205, the Commission made what was treated as a finding that the *existing* rate was "unreasonable." The Court noted that, under Section 5 (a), the Commission has undoubted power "to prescribe a change in contract rates whenever it determines such rates to be unlawful. * * * If the proceeding here satisfied in substance the requirements of [Section 5 (a)], it would seem immaterial that the investigation was begun as one into the reasonableness of the proposed rate rather than the existing contract rate." 350 U. S. at 353.[6]

In the light of this holding, it is apparent that there is no basis for petitioner's contention that adequate statutory findings were not made by the Commission in the case at bar. Not only did the Commission find that the existing rates being charged petitioner by

[6] The case was remanded to the Commission on the ground, not material here, that an erroneous standard of reasonableness had been employed.

United were unlawful, but this proceeding, unlike the one in *Sierra Pacific*, began as a Section 5 (a) investigation of the lawfulness of all of United's interstate rates and charges (*supra*, pp. 5–9). The investigation was initiated by the Commission on its own motion. It was never terminated with respect to petitioner, but was consolidated with the subsequent "filing and notice" proceeding instituted by United under Section 4, and finally resulted in the order now under review. Petitioner's statement (Pet. 9) that "the Commission's Examiner decided the instant case strictly on the basis of a proceeding under § 4 of the Natural Gas Act," is thus factually incorrect.[7] And while the Examiner cited only Section 4, the Commission was careful to cite Section 5, as well, to make clear what type of action was being taken. Clearly, this was not, as petitioner contends, an inconsequential recital, for the whole thrust of the Presiding Examiner's decision was directed to the Section 5 (a) proceeding.[8]

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[7] The inaccuracy of petitioner's statement is made manifest by the fact that only the rate in the 1929 contract was increased and, therefore, subject to inquiry under the Section 4 (e) proceeding. On the other hand, the Commission could inquire into the rate in the 1951 contract only through the rate-investigation proceeding under Section 5 (a).

[8] The Presiding Examiner carefully noted that the burden of the Commission staff in connection with the Section 5 (a) proceeding included "the removal of any forms or combinations of forms of rates which were unjust, unreasonable or unduly discriminatory." (R. 814.) He stressed that this case, unlike *Mobile* and *Sierra*, was concerned with the determination of just and reasonable rates after a full and complete hearing (R. 851). Further, he noted that petitioner had conceded in its brief that "if after a proper proceeding the Commission found the contract rate to be against the public interest it could modify it or set

At any rate, under the *Sierra Pacific* case, it would make no difference if this were solely a Section 4 proceeding, for the Commission's findings (R. 914–15) "here satisfied in substance the requirements of [Section 5 (a)]." These findings could hardly be more carefully drawn or phrased in language closer to the statutory standards of that section. The existing rates applicable to petitioner were found to be "excessive, unjust, unreasonable, unduly discriminatory, and preferential." The continued existence of the dual rate structure was "not in the public interest" and would constitute "the maintenance of an unreasonable difference in rates and charges for the same service at the same delivery point." Compliance with Section 4 would be effected by a filing which would "eliminate unjust, unreasonable and unduly discriminatory rates * * *." If these findings are supported by evidence in the record, the Commission's action in setting aside the existing rates and prescribing a new rate, found to be just and reasonable, was clearly within its authority under the *Sierra Pacific* case.[9]

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it aside entirely." (R. 896.) The examiner found that "[t]o permit Mississippi to have two rates based allegedly on historical contract relationships between United and Mississippi without regard to the rights of other customers in the same class, receiving the same service, in the same rate zone would amount to unlawful discrimination against such customers." (*Ibid.*)

[9] It is significant that petitioner does not take the position that under the *Mobile* and *Sierra* decisions it is entitled to the lower 45¢ and 5¢ rate of the 1929 contract or is bound to pay

2. As noted by the court below (Pet. App. A, pp. 8–9), petitioner's real complaint seems to be with respect to the standard of reasonableness employed by the Commission, *i. e.*, whether it properly found that, in the circumstances of this case, the existence of a dual rate structure for the same service at the same delivery point was itself unreasonable without regard to the reasonableness of the particular rates prescribed under the separate contracts.[10] Petitioner does not phrase the issue in these terms, evidently recognizing that this system of dual rates is very unique, so that the question of the Commission's power to combine the two contracts and prescribe a single rate for all portions of the same service does not present a question of general importance.

The existence of two separate rates for the same service was an historical accident caused by United's expansion of pipe-line facilities in 1951. Petitioner was the sole pipe-line customer of United in the Central Rate Zone operating under such dual rates. In any event, the court below concluded, after an analysis of the record, that the Commission's findings

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the higher $1.30 and 12½¢ rate of the 1951 contract. Rather, its position is that the old rate should have been raised in part and the new rate reduced in part to produce the same or substantially the same revenues which will be produced by the Commission-approved new single rate. Unlike *Mobile* or *Sierra*, therefore, petitioner does not contend that it is entitled to return to existing contract rates.

[10] This also seems to be the basis of Judge Bazelon's dissent (Pet. App. A, pp. 13–17).

were amply supported by the evidence (Pet. App. A, p. 10). The court stated (Pet. App. A, p. 7):

> Evidence was presented to show, and the Commission found, that United's properties are integrated and interconnected and that the two lines from Sterlington to Perryville, the sole delivery point to Mississippi, were tied into all sources of supply running into the Monroe District. The Commission found that allocation to separate lines and sources of supply solely for Mississippi was not feasible, that the gas was commingled before delivery to Mississippi, and that continuance of two rates for the same service at the same point was not in the public interest and would result in unreasonable differences.

There is no reason for this Court to review the record for itself. Congress has committed to the Commission the power to determine, by an application of informed judgment to existing facts, the existence of the preferences and discriminations sought to be prevented by the Natural Gas Act. Here, after a series of complete hearings extending over a span of several years at which petitioner was given full opportunity to present its claims, the Commission found that prohibited discrimination and preferences existed. This conclusion was subjected to judicial scrutiny by the court below and found to be supported by the record. There is no necessity for an additional review.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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APPENDIX

The Natural Gas Act of 1938, 52 Stat. 821, as amended, 15 U. S. C. 717, *et seq.*, provides, in pertinent part, as follows:

> SEC. 4. (a) All rates and charges made, demanded, or received by any natural-gas company for or in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges, shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.
>
> (b) No natural-gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.
>
> (c) Under such rules and regulations as the Commission may prescribe, every natural-gas company shall file with the Commission, within such time (not less than sixty days from the date this Act takes effect) and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate

to such rates, charges, classifications, and services.

(d) Unless the Commission otherwise orders, no change shall be made by any natural-gas company in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after thirty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the thirty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

(e) Whenever any such new schedule is filed the Commission shall have authority, either upon complaint of any State, municipality, or State commission, or upon its own initiative without complaint, at once, and if it so orders, without answer or formal pleading by the natural-gas company, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the natural-gas company affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than five months beyond the time when it would otherwise go into effect: *Provided*, That the Commission shall not have authority to suspend the rate, charge, classification, or service for

the sale of natural gas for resale for industrial use only; and after full hearings, either completed before or after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall go into effect. Where increased rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate amounts in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and, upon completion of the hearing and decision, to order such natural-gas company to refund, with interest, the portion of such increased rates or charges by its decision found not justified.

* * *

SEC. 5. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint of any State, municipality, State commission, or gas distributing company, shall find that any rate, charge, or classification demanded, observed, charged, or collected by any natural-gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by

order: *Provided, however,* That the Commission shall have no power to order any increase in any rate contained in the currently effective schedule of such natural gas company on file with the Commission, unless such increase is in accordance with a new schedule filed by such natural gas company; but the Commission may order a decrease where existing rates are unjust, unduly discriminatory, preferential, otherwise unlawful, or are not the lowest reasonable rates.

* * * * *

SEC. 19. (b) Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon any member of the Commission and thereupon the Commission shall certify and file with the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. * * *